

Fulfillment of The Rights and Obligations of The Prisoner's Husband at Class III Correctional Institutions Gunung Tua (Implementation of Marriage Law No. 16 of 2019 Amendment to Law No. 1 Of 1974)

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ABSTRACT

This research uses qualitative research or field research. Data collected through interviews, observation and documentation of the fulfillment of the obligations of husbands who are prisoners to their wives and children. Then it will be analyzed using descriptive analysis techniques, which is a method that describes and interprets data that has been collected in an inductive mindset. The results show that 50% of husbands who are prisoners cannot provide a living for their wives and children, and wives prefer to end their marriages. Meanwhile, another 50% choose to maintain the marriage, because the wife of the inmate can still earn a living with the results of the business she manages. Fulfillment of income is also obtained from the family, both the wife's family and husband's family.

Keywords: family, obligation, marriage

ABSTRAK

Penelitian ini menggunakan penelitian kualitatif atau penelitian lapangan. Pengumpulan data dilakukan melalui wawancara, observasi dan dokumentasi terhadap pemenuhan kewajiban suami narapidana terhadap istri dan anaknya. Kemudian akan dianalisis menggunakan teknik analisis deskriptif, yaitu suatu metode yang menggambarkan dan menginterpretasikan data yang telah dikumpulkan dalam pola pikir induktif. Hasil penelitian menunjukkan bahwa 50% suami yang menjadi narapidana tidak dapat menghidupi istri dan anak-anaknya, dan istri lebih memilih untuk mengakhiri pernikahan mereka. Sedangkan 50% lainnya memilih mempertahankan perkawinan, karena istri narapidana masih bisa mencari nafkah dengan hasil usaha yang dikelolanya. Pemenuhan pendapatan juga diperoleh dari keluarga, baik keluarga istri maupun keluarga suami.

Kata kunci: keluarga, kewajiban, pernikahan

INTRODUCTION

Marriage according to Law No. 16 of 2019 changes to Law No. 1 of 1974 marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a *sakinah mawaddah warohmah* family based on the One Godhead.¹

Marriage is a legal act between husband and wife to get closer to Allah SWT, which resulted in the emergence of civil law between the two. In order for the purpose of marriage to be achieved, it is necessary to have legal rules in husband and wife relationships. The legal rules explain the rights and obligations of husband and wife. If each party knows and carries out their obligations, a happy family will be created.²

To achieve the desired marriage, one must obey the norms that govern the implementation of daily life in the relationship between husband and wife. Both have full responsibility in building a good household. If one husband and wife neglect their responsibilities, it is certain that there will be continuous conflict, disharmony, contrary to the real purpose of marriage.³

Rights in the sense here are what should be obtained by someone from another person. While obligations are actions based on actions in terms of carrying out duties and functions in the household, both have different roles and have reciprocal rights between the two. Happiness is created because it is based on the awareness of husband and wife in fulfilling their daily obligations.

The husband is obliged to provide proper housing, clothing, food and other necessities to his wife and children without bringing harm.⁴ The livelihood in question is the cost of living for the needs of his wife and children in daily life. The fulfillment of a living is part of the continuity of maintaining household relations. The provision of a husband's livelihood includes providing shelter, food, clothing and also medical treatment. The husband is obliged to meet the needs in the household even though basically the wife is a capable person.⁵

The provisions governing the husband's obligations to the family are stated in Article 80 paragraph 2 and paragraph 4 of the Compilation of Islamic Law "that the husband is obliged to protect

¹Pasal 1 UU No 16 Tahun 2019 Perubahan Atas UU No 1 Tahun 1974 Tentang Perkawinan.

²Ahmad Rofiq, *Hukum Perdata Islam di Indonesia*, (Jakarta: PT. Raja Grafindo Persada, 2013), 147.

³*Ibid.* h. 147.

⁴Kamal Muchtar, *Asas-asas Hukum Islam Tentang Perkawinan*, (Jakarta: Bulan Bintang, 1974), 119.

⁵Dakwatul Cairah, *Hukum Perkawinan Islam Di Indonesia*, (Bandung: Pustaka Setia, 2016), 11.

his wife and provide all the necessities of household life according to his ability. According to his income, the husband bears the sustenance, *kiswah* and residence for the wife. The husband also pays for the household, treatment costs and medical expenses for his wife and children. Then the husband is obliged to pay for the education of the children.⁶

The rights and obligations of husband and wife are fulfill the provision of birth to his wife and children. The wife's rights as husband's obligations, such as material needs, such as clothing (clothing); Board (residence); Food (basic needs) according to the ability of the husband. Meanwhile, the husband's rights are the obligations of the wife, such as: the wife must obey her husband as long as the husband does not order immorality to God.⁷ As for the rights and obligations with husband and wife, namely the right to love, husband and wife are obliged to love each other; Heirs inherit each other and keep each other's secrets.

Terminologically, livelihood means sufficient food, clothing, and shelter for those who are dependents.⁸ Or spending someone's expenses on people who are obligated to support him, the Plague az-Zuhaili also argues about living, namely meeting the needs of people who are his dependents in the form of food, clothing and shelter.⁹

Based on the Marriage Law, the obligation to provide for the wife depends on the husband's ability without burdening her and the wife's obligation is to be physically and mentally devoted to her husband.¹⁰ Economic factors and the difficulty of getting basic needs in earning a living, so that sometimes husbands earn a living in ways that are not justified by law, be it Islamic law or positive law that applies in Indonesia.

The fuqaha agree that it is obligatory for the wife to provide for her husband if he is of age, unless the wife performs *nuyuz*. According to Hanafiyyah, there is no living for a young wife who is not ready to have sex.¹¹ The existence of a legal

⁶Undang-Undang, Kompilasi Hukum Islam. Undang-Undang No.1 tahun 1974 tentang Perkawinan, Pasal 80 ayat 4 tentang Kewajiban suami. (Bandung: Fokusindo Mandiri, 2013), h. 21.

⁷Amir Nuruddin, *Hukum Perdata Islam di Indonesia*, (Jakarta: Kencana Prenada Media Group, 2012), h. 185.

⁸Yayah Abdullah al- Khatib, *Ahkam al-Marrah al-Hamil AsySyariah al-Islamiyyah*, Ahli Bahasa Mujahidin Muhayan, Fikih Wanita Hamil, (Jakarta: Qisthi Press, 2005), h. 164

⁹Wahbah az-Zuhaili, *al-Fiqh al-Islami wa Adillatuhu*, (Syria: Dar al-Fikr bi Damsyiq, 2002), Juz. 10, p. 7348

¹⁰Jamhuri Ungel, Rispalman, Taufiq Hidayat, "Pengabaian Nafkah dalam Proses Perceraian di Kecamatan Pintu Rime Gayo Kabupaten Bener Meriah" *El-Ussrah: Jurnal Hukum Keluarga*, Vol. 2 No.1 (2019): 259-288

¹¹Az-Zuhaili, *al-Fiqh.*, h. 7348

marriage and a wife who is worthy of intercourse as if she has grown up to be mature, and is able to be mixed (interfered), then she is entitled to a living. But if a wife is still small and can only make out but can't get along, then a wife like this is not entitled to a living.

The provisions governing the husband's obligations to the family are stated in Article 80 paragraph 2 and paragraph 4 of the Compilation of Islamic Law "that the husband is obliged to protect his wife and provide all the necessities of household life according to his ability. According to his income, the husband bears

1. Livelihood, kiswa and residence for the wife.
2. Household expenses, treatment costs and medical expenses for wife and children.
3. Education costs for children.¹²

The rights and obligations of husband and wife are as follows:

1. Fulfillment of birth support for wife and children such as material needs, for example:
 - a. Clothing (clothing)
 - b. Board (residence)

- c. Food (basic needs) according to the ability of the husband.
2. The husband's rights as the wife's obligations, such as: the wife must obey / obey her husband as long as the husband does not order immorality / violate the provisions of Allah SWT.¹³
3. Rights and obligations with husband and wife, such as:
 - a. The right to love, husband and wife must love each other.
 - b. Mutual inheritance.
 - c. Keep each other's secrets.

Article 80 paragraph 2 and paragraph 4 of the Compilation of Islamic Law states that the husband is obliged to protect his wife and provide all the necessities of household life according to his ability. According to his income, the husband bears

1. Livelihood, kiswa and residence for the wife.
2. Household expenses, treatment costs and medical expenses for wife and children.
3. Education costs for children.¹⁴

In the Marriage Law, the obligation to provide for the wife depends on the husband's ability without burdening her

¹² Undang-Undang, Kompilasi Hukum Islam. Undang-Undang No.1 tahun 1974 tentang Perkawinan, Pasal 80 ayat 4 tentang Kewajiban suami. (Bandung: Fokusindo Mandiri, 2013), h. 21.

¹³Nuruddin, *Hukum*, h. 185.

¹⁴ Undang-Undang, Kompilasi Hukum Islam. Undang-Undang No.1 tahun 1974 tentang Perkawinan, Pasal 80 ayat 4 tentang Kewajiban suami. (Bandung: Fokusindo Mandiri, 2013)

and the wife's obligation is to be physically and mentally devoted to her husband.¹⁵

Al-Quran and Hadith to provide provisions for a living, means that the income is given fairly (medium, middle, not less than the need but not less than the need), according to the level of life and condition of the wife and the ability of the husband.¹⁶

Because of economic factors and the difficulty of getting basic necessities in earning a living, so sometimes husbands make a living in ways that are not justified by law, be it Islamic law or positive law that applies in Indonesia.

From the explanation above, both from the Marriage Law and also the Compilation of Islamic Law which in detail regulates the rights and obligations of husband and wife. So in this case the researcher describes an example of a case in the third class Gunung Tua prison that the wife sued her husband on the grounds that the husband was unable to provide for his wife and children, as well as the spiritual support for his wife, this was based on the fact that the husband went to prison.

Based on Article 1 paragraph 7 of Law Number 12 of 1995 concerning

Corrections "A prisoner is a convict who has served a sentence of loss of independence in a correctional institution" while in Article 1 paragraph 6 "A convict is someone who is convicted based on a court decision that has permanent legal force."¹⁷

The Class III penitentiary of Gunung Tua Padang Lawas Utara is located at Jalan Sisingamangaraja No. 32, Old Mountain, Ps. Mt. Tua, Padang Bolak, North Padang Lawas Regency, North Sumatra 22753, Indonesia.

From the number of prisoners' data above, it can be seen that there is an increase in residents from 2018-2020.¹⁸The data above is the number of prison inmates with family status. These criminal acts are based on various factors and backgrounds of the prisoners such as economic inequality, lack of religious understanding, not upholding social values, and the opportunity to commit the crime.

In order to find out more about the problems above, the researchers are interested in raising the title that studies about "Fulfillment of the Obligations and Rights of Husbands Who Are Convicts in Class III Correctional Institutions Gunung

¹⁵ *Ibid.* h. 37.

¹⁶A. Hamid Sarong, *Hukum Perkawinan Islam di Indonesia*, (Banda Aceh: PeNa, 2005), h. 115.

¹⁷Law, Regarding Corrections, No. 12 of 1995 article 1 paragraphs 6 and 7.

¹⁸Prisoners' Data Obtained from Class III Prison Gunung Tua Kab. North Padang Lawas, 27 January 2021

Tua Kab. North Padang Lawas (Application of Marriage Law No. 16 of 2019).

Research methods

This research process uses a descriptive research design by using the type of field research (field research).¹⁹ This research is used to describe accurately the characteristics of individuals, circumstances, symptoms, or certain groups in society.

While the nature of the research in this paper is descriptive analytical, namely research that describes the object under study, namely how to fulfill the husband's obligations to his wife while the husband is in prison, then it will be analyzed from the perspective of marriage law in Indonesia and also Islamic law.

The approach used is the Legislative Approach method and case studies to collect natural data, not the composition of a particular place. In this case the author examines the case of how the fulfillment of the rights and obligations of a husband who is a prisoner to his wife and children while their movements are limited in prison.

The research location is an important part of a study because it is directly related to the place and location

that is used as the object of the problem. The research location in writing this thesis is at the Class III Penitentiary of Gunung Tua, North Padang Lawas Regency. Sisingamangaraja Street No. 32, Old Mountain, Ps. Mt. Tua, Padang Bolak, North Padang Lawas Regency, North Sumatra 22753, Indonesia.

The subjects in this study were inmates who were in a class III penitentiary in Gunung Tua, Kab. North Padang Lawas and also the wife of a convict. In order to obtain accurate data or information, informants are needed. Informants are people who will be interviewed related to the research. The informants that will be used in this research are 1. Prisoners; 2. Convict's wife; 3. Head of Prison/Stap Employee Class III Gunung Tua Kab. North Lawas

The data sources in this study are, the authors use three forms of data sources as an information center supporting the data needed in the study. The data sources are:

1. Primary data

Primary data is the most important data in qualitative research in the form of words and actions of a person's behavior. This primary data is sourced directly from the first

¹⁹Sugiyono, Quantitative, Qualitative and R&D Research Methods, (Bandung: Alfabeta, 2010), p. 2.

person before being processed by others.²⁰ The source of data in this study is sourced directly from the subject under study, namely respondents in the third class Gunung Tua penitentiary, the head of the prison and his staff to obtain accurate information.

2. Secondary data

Literature or data related to research, and will further strengthen primary data, not directly but able to clarify research to make it more alive. Secondary data sources include several reading literature, such as books, scientific journals, dissertations, papers, articles, and other legal materials.

3. Tertiary data

Materials used as an explanation of various legal terms related to the object of research such as

- a) legal dictionary
- b) KBBI.

The data collection techniques used in this study are intended to make it easier for researchers to obtain more accurate information.

1. Observation

Observation is a data collection technique that is carried out through observation, accompanied by notes on the state or behavior of the target object.²¹ This technique is an initial form to determine the objective conditions of the object under study.

2. Interview

Interviews are also a form of direct communication between researchers and respondents. The researcher will ask questions regarding the problem under study, and the informant will provide answers to the researcher's questions.²²

The interviews conducted in this study were structured interviews. Structured interviews are questions that are prepared in advance by researchers with questions that lead to the core of the problem.²³

3. Documentation

Looking for data on things or variables in the form of notes related to the problem under study sourced from books, newspapers, journals,

²⁰ Soekanto Soerjono, *Pengaruh Penelitian Hukum*, (Jakarta: UII Press, 1986), h. 10.

²¹ Cholid Narbuko dkk. *Metodologi Penelitian*, (Jakarta: Bumi Aksara, 1997), h.76.

²² Abdurrahman Fatoni, *Metodologi Penelitian dan Teknik Penyusunan Skripsi*, (Jakarta: Rineka Cipta, 2011), h.104.

²³ Lexy Moleong, *Penelitian Kualitatif*, (Bandung: PT Remaja Putra Ria, 2000), h. 135.

magazines, and other scientific information as well as searching and collecting data relating to the fulfillment of the husband's obligations to his wife and children. according to the marriage law and other disciplines.

Other data concerning the problem of this research were also taken from the document data of the Class III Gunung Tua Penitentiary, North Padang Lawas Regency.

In this study, data analysis was carried out by adopting the following steps:

- a. Collect all data, both from primary and secondary data sources.
- b. Examined and understood, after the data has been collected, the researcher learns and understands it before the next stage.
- c. Data clarification, from the data that has been collected then clarifying the data.
- d. After the data is clarified, the data is linked to the existing components as found, so that conclusions can be drawn from the results of the study.
- e. Provide internal conclusions from the results of the study.

The technique of data collection, triangulation is defined as a data collection technique that combines various data collection techniques and existing data sources. If the researcher collects data by triangulation, then the researcher actually collects data which at the same time tests the credibility of the data with various data collection techniques and as a data source.

24

Triangulation is a technique of checking the validity of data that takes advantage of something else. Outside the data for checking purposes or as a comparison against a data. In qualitative research, the triangulation technique is used to check the validity of the data that the researcher finds from the results of the researcher's interviews with other key informants and then the researcher confirms with the study of documentation related to the research and the results of observations of the researchers in the field so that the purity and validity of the data is guaranteed.

²⁴ Sugiono, *Metode Penelitian Pendidikan Pendekatan Kuantitatif, Kualitatif dan R&D*, (1989), h. 330.

DISCUSSION

1. Research Findings

A Brief History of the Class III Old Mountain Prison, North Padang Lawas Regency The Class III Penitentiary of Gunung Tua, North Padang Lawas Regency is one of the technical implementation units of the Ministry of Law and Human Rights whose duty and function is to provide

services and guidance to inmates. The Gunung Tua Class III Penitentiary was originally a branch of the Padangsidempuan State Detention Center in Gunung Tua, located in the III neighborhood of Jalan Ketupan Pasar Gunung Tua, that is, the building is a relic of Dutch colonialism. The data used as informants in this study are as follows:

Table 3.2

Name	Age	Educa tion	Case Criminal	Status Marriage
Ali Typhoon Hsb	35 years old	senior High Schoo l	Narcotics 5 Years in Prison	family
Mora Siregar	32 years	senior High Schoo l	Narcotics 5 Years in Prison	family
protection	40 Years	senior High Schoo l	Theft 7 Years in Prison	family
Prosperous	45 years old	junior high school	Theft 7 Years in Prison	family

Informants With Separated Marital Status

Table 3.3

Name	Age	Educa tion	Case Criminal	Marital status
Coal Sprinkle	41 years old	junior high school	4 Years 2 Months Narcotics	divorced
Sodikin	35 years old	senior High Schoo l	4 years Narcotics	divorced
Nurdin	28 years	senior High Schoo l	6 Years of Theft	divorced
Baruddin	32 years	SD	Narcotics 3 Years 8 Months	divorced

Inmates data above are informants used in this study, to get accurate answers from informants, researchers conducted interviews with inmates and also wives of prisoners.²⁵

Fulfillment of a living by a husband who is a prisoner of his wife and children according to Islamic law

In Islamic law, the obligation that must be carried out by the husband is to fulfill the physical and spiritual support for his wife. The livelihoods given are

material and non-material, all of which must be fulfilled with sincerity and hope for the blessing of Allah SWT.

Fulfillment of the obligatory maintenance by the husband for his wife and children must be based on the ability of the husband. The wife should not force her will to ask for everything that is limited to the husband's ability. Although basically the obligation in terms of earning a living is the husband's duty, it does not rule out the possibility that the

²⁵Dokumentasi Jenis Kejahatan Dan Gunung Tua Kabupaten Padang Lawas Utara, Persentasi, Lembaga Pemasarakatan Kelas III Tanggal 01 Agustus 2021.

wife may also earn a living with the intention and seek the pleasure of her husband so that they both earn a living for the needs of the family.²⁶

The husband's obligation in the family is to provide a living for his wife and children by meeting all household needs and also education for their children.

Informant II, Mora Siregar 32 years (husband) with a prison sentence of 4 years 2 months with a case of Narcotics. Mrs. Rahmayani Nasution 27 years old (wife). While I was in prison, to be honest, I never gave a living to my wife again. However, we still have a business and with this business, the wife can fulfill her daily needs.²⁷

Informant III, Parlindungan Siregar 40 years old (husband), with a sentence of 4 years in the Norcotika case, Mrs. Riana 32 years (wife) "While I was in prison, of course I could not provide physical and spiritual support to my wife. The sentence that I passed served 2 years. And to meet household needs, my wife and children who are trying to make a living.

Wife of Informant III, Mrs. Riana, 32 years old. we have 3 children to fight for, even though our husband is in prison we still have a business that we can manage. With this business, I and the children can still meet their daily needs."²⁸

Informant IV, Mr. Makmur 45 years sentenced to 7 years in prison for theft case.

Informant IV's wife, Ibu Aisya explained, "she will remain patient waiting for her husband to be released from prison. If the problem of living is not an issue, the important thing is that my husband wants to change into a better person and that has made me quite happy."²⁹

Informant V, Mr. Sodikin 38 years old, sentenced to 4 years in prison, Narcotics case. The period of detention that is passed is approximately 1 year and 6 months. With a situation like this, of course, I can't support my wife physically and mentally. And my wife couldn't accept me anymore because I was a prisoner. And that made my wife not

²⁶M. Ali Hasan, *Pedoman Berumah Tangga Dalam Islam*, (Jakarta: Siraja, 2006), h. 105.

²⁷Interview with Mora Siregar, at the Class III Gunung Tua Correctional Institution, August 2, 2021.

²⁸Interview with Parlindungan Siregar, Riana, in Gunung Tua Kab. North Padang Lawas, August 03, 2021.

²⁹ Interview with Ms. Aisya, At Gunung Tua Market, Neighborhood II, North Padang Lawas Regency, August 03, 2021.

want to keep our marriage, and chose to separate.”³⁰

Informant V's wife, Ms. Dwita Ritonga, 38 years old, explained. “That my husband cannot be a good head of the household, a good example for the children and as a guide in the household. I feel ashamed of my family because I have a husband in prison and for that I better decide to separate from my husband.”³¹

If a husband neglects to carry out his obligations towards his wife and children, then the wife may choose between being patient and persisting or choosing to sue her husband. In the article³⁴ paragraph 3 states that "if a husband or wife neglects their obligations, each of them can file a lawsuit to the Court".

In the Government Regulation of the Republic of Indonesia No. 9 of 1975 concerning the implementation of Law No. 1 of 1974 concerning marriage, Article 19 letter C, one of the parties gets a prison sentence of 5 years or a heavier law after the marriage takes place.³²

This study will explain about the fulfillment of a wife's income which can no longer be carried out by a husband who is a prisoner. Researchers get answers from informants which will be described below.

"Similar to what Informant VI said by Mr Tamburan Batubara 41 years with a prison sentence of 4 years and 2 months in a narcotics case, he explained that while I was in prison I could no longer fully support my wife and children in daily needs so that my wife and children who work for looking for daily needs. The wife prefers to divorce because she can't stand the conditions she is in."³³

Informant VI's wife, Ibu Indah Muliana, 35 years old, explained that she “As long as my husband is in prison, I am the backbone of the family, I work hard to support my children. So why should I keep a husband who can't be responsible for the family. It's better for me to separate from my husband.”³⁴

The same is true for Informant VII, Mr. Nurdin, 28 years old, with a sentence of 6 years in prison, in the case of theft. “What I did was wrong and embarrassed

³⁰Interview with Mr. Sodikin, at the Class III Penitentiary of Gunung Tua, North Padang Lawas Regency, August 03, 2021

³¹Interview with Ms. Dwita Ritonga, At Gunung Tua, North Padang Lawas, On August 3, 2021.

³²Government Regulation of the Republic of Indonesia No. 9 of 1975 concerning the

Implementation of Law No. 1 of 1974 concerning Marriage

³³Interview with Mr. Tamburan Batubara, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, On August 03, 2021.

³⁴Interview with Ms. Indah Muliana, at Pasar Gunung Tua Neighborhood 1, August 03, 2021.

my family, especially my wife and children. While I was in prison, I realized that I could not give anything else to my wife and children. We have 1 child who is still a toddler who needs a lot of daily needs. I never again provide a living for my family because of this condition, and the property left behind is not so much and over time our assets begin to decrease and even run out for the needs of my wife and children.”³⁵

Wife of Informant VII, Mrs. Ramida Siregar, 25 years old. The researcher got information from the family of Mrs. Ramida Siregar, because the informant in question had moved out of town with other families.

“That according to the explanation of Mrs. Ramida Siregar's family, her child has been separated from her husband for a long time because my son does not get the income he should get. My child has 1 child who is still small and it is our responsibility as a family to pay for it. My son has no relationship with his husband after entering prison, we are ashamed to have family members as prisoners”³⁶

“Furthermore, Informant VIII is Mr. Baruddin, aged 38, sentenced to 3

years and 8 months in prison in a Narcotics case. The informant explained that he also shared the same opinion as the other informants “that he could no longer provide for his wife and children. Lives stop starting from 1 year after being imprisoned. The premiums obtained from prisons are not sufficient for daily needs. I have to take responsibility for what I did and accept with grace and sincerity my wife filed for divorce from me.”³⁷

Wife of Informant VIII, Mrs. Mariana, 33 years old. The researcher also got information from the family because the informant in question was married and moved house.

"According to the family's explanation, quoted from the story of the wife below, "they have been separated from their husbands for a long time on the grounds that their wives can't stand the conditions they are in. Her husband is a drug addict and it is very difficult to cure. I asked my husband for talaq to break the marriage relationship and choose to live alone with his child. We are blessed with 3 children, 1 of which I brought and 2 with my husband's family. Before we

³⁵Interview with Mr. Nurdin, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, On August 4, 2021.

³⁶Interview with Mrs. Ramida's Family, At Her Home Portibu Julu, On August 04, 2021

³⁷Interview with Mr. Baruddin, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, August 6, 2021.

separated the children were still in school and even now they are still in school.”³⁸

2. Legal Theory Analysis Review

In the theory of legal certainty that the law was created with the aim of protecting interests and also creating a sense of security for everyone. Legal certainty is a solution in law enforcement regardless of who made the mistake. With this theory, it can be understood that the law will guarantee every citizen's rights. If it is related to the husband and wife relationship, it cannot be separated from the obligations that must be carried out by both.

The law has clearly stipulated that the provisions for carrying out the rights and obligations of husband and wife have been stated in the Marriage Law No. 1 of 1974. The law provides very clear certainty that the obligation to earn a living is the husband in accordance with article 34 paragraph 1 that "the husband is obliged to protect and provide all the necessities of household life according to his ability. Giving his wife a *kiswah*, a place to live and also education for children.

But in reality this obligation is not carried out by the husband because the

husband is a prisoner. Even though there is already legal certainty that explicitly protects the wife's right to be supported. But in this study, the husband neglects his obligations by not providing a living for his wife, even the wife is obliged to earn a living to meet daily needs.

Conclusion

Husband and wife both have shared responsibilities, although their roles and functions are different, they both have the same function, namely fostering a *sakinah mawaddah warahmah* family. The husband is obliged to his wife and children and vice versa, the wife is also obliged to obey and obey her husband.

The husband is obliged to provide all the needs of his wife and children as a form of husband's responsibility to the family. This obligation arises because it is based on a legal marriage relationship under Islamic Law and Indonesian Marriage Law. The husband is obliged to provide physical and spiritual support to his wife according to his ability. Likewise with the wife, the wife is obliged to obey and obey her husband, love and cherish him and manage household needs properly.

The Compilation of Islamic Law as well as Marriage Law has clearly regulated the rights and obligations of husband and

³⁸ Interview with Mariana's family, in Purbasinomba, August 6, 2021.

wife. The law will protect the behavior of the rights and obligations of each so that a harmonious and happy family is created. And the law is also an effort to minimize the occurrence of quarrels and disputes between husband and wife which results in divorce.

In this study it can be concluded that husbands who are prisoners cannot carry out their obligations both physically and mentally. So that the status of the inmate's husband will have a negative and positive impact on the inmate's family. A wife who does not question her living will maintain her household, while a wife who is not pleased with her husband does not support her choosing to separate because she cannot stand the conditions and circumstances experienced.

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Interview

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Interview with Mora Siregar, at the Class III Gunung Tua Correctional Institution, August 2, 2021.
Interview with Parlindungan Siregar, Riana, in Gunung Tua Kab. North Padang Lawas, August 03, 2021.
Interview with Ms. Aisya, At Gunung Tua Market, Neighborhood II, North Padang Lawas Regency, August 03, 2021.

Interview with Mr. Sodikin, at the Class III Penitentiary of Gunung Tua, North Padang Lawas Regency, August 03, 2021
Interview with Ms. Dwita Ritonga, At Gunung Tua, North Padang Lawas, On August 3, 2021.
Interview with Mr. Tamburan Batubara, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, On August 03, 2021.
Interview with Ms. Indah Muliana, at Pasar Gunung Tua Neighborhood 1, August 03, 2021.
Interview with Mr. Nurdin, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, On August 4, 2021.
Interview with Mrs. Ramida's Family, At Her Home Portibu Julu, On August 04, 2021
Interview with Mr. Baruddin, at the Class III Penitentiary of Gunung Tua Kab. North Padang Lawas, August 6, 2021.
Interview with Mariana's family, in Purbasinomba, August 6, 2021.